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8 ASETEK DANMARK A/S and
Counterdefendant ASETEK USA, INC.

10 **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

13 ASETEK DANMARK A/S,
14 Plaintiff and
Counterdefendant,
15 ASETEK USA, INC.,
16 Counterdefendant,
17 v.
18 COOLIT SYSTEMS, INC.,
19 Defendant and
Counterclaimant,
20 COOLIT SYSTEMS USA INC., COOLIT
SYSTEMS ASIA PACIFIC LIMITED,
COOLIT SYSTEMS (SHENZHEN) CO.,
LTD.,
23 Defendants,
24 CORSAIR GAMING, INC. and CORSAIR
MEMORY, INC.,
26 Defendants.

CASE NO. 3:19-cv-00410-EMC

**DECLARATION OF JEFFREY D. SMYTH
IN SUPPORT OF ASETEK DANMARK
A/S'S OPPOSITION TO DEFENDANTS'
MOTION TO STRIKE EXHIBIT 275**

Date: May 5, 2022
Time: 1:30 PM
Location: Courtroom 5, 17th Floor
Judge: Hon. Edward M. Chen

I, Jeffrey D. Smyth, declare as follows:

1. I am an attorney licensed to practice before this Court and all courts of the State of California, and am a Partner with Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, counsel for Plaintiff and Counterdefendant Asetek Danmark A/S (“Asetek”) in the above-entitled action. I submit this declaration in support of Asetek’s Opposition to Defendants’ Motion to Strike Exhibit 275. The matters stated herein are based upon my personal knowledge, and if called as a witness, I would testify as to the following statements.

IDENTIFICATION OF EXHIBITS

2. Attached here to as **Exhibit A** is a true and correct copy of an excerpt of the January 10, 2022 deposition of Dr. Himanshu Pokharna, CoolIT's expert in this matter.

3. Attached here to as **Exhibit B** is a true and correct copy of an excerpt of the March 18, 2022 deposition of Dr. David Tuckerman, Asetek's expert in this matter.

RELEVANT FACTS CITED IN ASETEK'S MOTION

4. CoolIT had not communicated Dr. Pokharna’s rebuttal opinions regarding the measurement of the Antarctica device before serving his rebuttal report on December 8, 2021. CoolIT produced some of the images relied on Dr. Pokharna in a collection of about 150 documents measuring all aspects of various physical prior art devices. CoolIT did not provide any indication or explanation of which images Dr. Pokharna would use in his report, or what Dr. Pokharna’s rebuttal opinions would be, until his expert report was served on December 8, 2022.

5. CoolIT's Request Nos. 99 "all documents" related to aspects of the Antarctica device. Asetek did not agree to produce "all documents" in response to these requests, but did make the Antarctica device available for inspection and produced documents relating to the structure, marketing, and sales of the Antarctica device.

6. CoolIT never raised any complaints about Asetek's objections, response, or production related to CoolIT's Document Request Nos. 99 or 102.

1 I declare under penalty of perjury under the laws of the United States for the forgoing is true
2 and correct. Executed this 14th day of April 2022, at Palo Alto, California
3

4 By: /s/ Jeffrey D. Smyth
5 Jeffrey D. Smyth
6 *Attorneys for Plaintiff and Counterdefendant*
ASETEK DANMARK A/S and
Counterdefendant ASETEK USA, INC.

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